

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case 32-CA-281135

Date Filed 8/10/2021

INSTRUCTIONS:

File an original with NLRB Regional Director for the Region in which the alleged unfair labor practice occurred or is occurring

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT		
a. Name of Employer Cole European		b. Tel. No. (925) 935-2653
		c. Cell No.
		f. Fax No.
d. Address (Street, city, state, and ZIP code) 2103 North Main Street Walnut Creek CA 94549	e. Employer Representative Wayne Babcock	g. e-Mail
		h. Number of workers employed 20+
i. Type of Establishment (factory, mine, wholesaler, etc.) Automotive	j. Identify principal product or service Automotive sales and service	
The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) 5, and (d) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce with the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.		
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)		
In the past 6 months the above referenced employer has refused to bargain in good faith. It has refused to engage in face to face negotiations or even to include all parties in remote negotiations. It has refused to engage in productive bargaining with the representatives of the Union's choosing and instead is only engaging in side discussions without providing any formal offers. Based on the above, the employer is engaged in bad-faith bargain.		
Full name of party filing charge (if labor organization, give full name, including local name and number)		
Automotive Machinists Union Local 1173		
4a. Address (Street and number, city, state, and ZIP code) 1900 Bates Ave Ste H Concord, CA 94520-8557		4b. Tel. No. (925) 687-6421
		4c. Cell No.
		4d. Fax No. (please add)
		4e. (b) (6), (b) (7)(C)
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) International Association Of Machinists & Aerospace Workers		
6. DECLARATION		Tel. No. (510) 337-1001
I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.		Office, if any, Cell No.
 (Signature of representative or person making charge)		Fax No. (510) 337-1023
Caren P. Sencer, attorney (Print/type name and title or office, if any)		e-Mail nlrbnotices@unioncounsel.net
Address: Weinberg, Roger & Rosenfeld, 1375 55 th Street, Emeryville, CA 94608		
August 10, 2021 (date)		

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 32
1301 Clay St Ste 300N
Oakland, CA 94612-5224

Agency Website: www.nlr.gov
Telephone: (510)637-3300
Fax: (510)637-3315



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August 11, 2021

(b) (6), (b) (7)(C)

Automotive Machinists Union Local 1173
1900 Bates Ave Ste H
Concord, CA 94520-8557

Re: Cole European
Case 32-CA-281135

Dear (b) (6), (b) (7)(C)

The charge that you filed in this case on August 10, 2021 has been docketed as case number 32-CA-281135. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney AMY BERBOWER whose telephone number is (510)671-3016. If this Board agent is not available, you may contact Regional Attorney CHRISTY KWON whose telephone number is (510)671-3020.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlr.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Valerie Hardy-Mahoney". The script is cursive and fluid, with the first name "Valerie" being more prominent than the last name.

VALERIE HARDY-MAHONEY
Regional Director

cc: Caren P. Sencer, Attorney
Weinberg, Roger & Rosenfeld
1375 55th Street
Emeryville, CA 94608



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August 11, 2021

Wayne Babcock
Cole European
2103 North Main St
Walnut Creek, CA 94596-3746

Re: Cole European
Case 32-CA-281135

Dear Mr. Babcock:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney AMY BERBOWER whose telephone number is (510)671-3016. If this Board agent is not available, you may contact Regional Attorney CHRISTY KWON whose telephone number is (510)671-3020.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board

agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

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We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Valerie Hardy-Mahoney". The signature is written in a cursive, flowing style.

VALERIE HARDY-MAHONEY
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire